

**Changes in Kentucky Law on the Qualification  
of Foreign Limited Partnerships,  
Foreign Limited Liability Partnerships and  
Foreign Business Trusts**

**Frequently Asked Questions**

In 2007 the Kentucky General Assembly passed legislation amending the laws governing the qualification of Foreign Limited Partnerships (LPs), Limited Liability Partnerships (LLPs) and Business Trusts (BTs) qualify to transact business in Kentucky. The following frequently asked questions are intended to provide guidance on those changes.

**Q1.** What entities are affected?

- A.** The new rules on foreign qualification govern only foreign LPs, LLPs and BTs. No changes have been made for foreign corporations or limited liability companies.

**Q2.** What is the general rule for foreign LPs?

- A.** In 1998, Kentucky adopted the Revised Uniform Limited Partnership Act with 1985 Amendments (“KyRULPA”), including the provision addressing the qualification of foreign LPs. Under this Act, each foreign LP filed an application for a certificate of authority. No annual report was required, but the application needed to be corrected as the facts underlying it changed.

In 2006, Kentucky adopted the Uniform Limited Partnership Act (“KyULPA”). The provisions of the uniform act, as they relate to qualification, were modified to track the procedures and nomenclature already in place for Kentucky corporations and LLCs. Under KyULPA, foreign LPs are required to file an application for a certificate of authority. KRS § 362.2-902

From the effective date of KyULPA through December 31, 2007, foreign LPs may qualify under either act. However effective January 1, 2008, those provisions of KyRULPA addressing the qualification of foreign LPs are repealed, and only qualification under KyULPA is effective. There is no “grandfather” clause. Consequently not later than January 1, 2008, each foreign LP that is transacting business in Kentucky, as that term is defined in KRS § 362.2-903, is required to have filed a KyULPA application for a certificate of authority.

**Q3.** What is the general rule for foreign LLPs?

- A.** In 1994, Kentucky adopted amendments to its adoption of the Uniform Partnership Act (“KyUPA”) allowing for the qualification of foreign LLPs. Under this Act, each LLP, on an annual basis and with a \$200 fee, filed a “registration as a limited liability partnership” with the Secretary of State. There existed no separate annual report requirement. In the event that the annual registration was not filed, the registration to transact business terminated.

In 2006, Kentucky adopted RUPA (“KyRUPA”), which provides for the qualification of foreign LLPs by the filing of a statement of foreign qualification. KRS § 362.1-1102.

From the effective date of KyRUPA through December 31, 2007, foreign LLPs may qualify under either act. However, effective January 1, 2008, those provisions of KyUPA addressing the qualification of foreign LLPs are repealed, and only qualification under KyRUPA is effective. Consequently, not later than January 1, 2008, each foreign LLP that is transacting business, as that term is defined in KRS § 362.1-1104, is required to file a KyRUPA statement of foreign qualification.

**Q4.** What if a foreign LP has already filed a KyULPA application for a certificate of authority?

- A.** If the limited partnership has already filed an application for a certificate of authority pursuant to KRS § 362.2-902, no additional filing is at this time necessary. In order to determine whether your limited partnership has already made such a filing, you may check the Secretary of State’s website. If that filing has been made, the “company type” will be listed as **FNP**.

**Q5.** What if a foreign LLP has already filed a KyRUPA statement of foreign qualification?

- A.** If a foreign LLP has already filed a statement of foreign qualification pursuant to KRS § 362.1-1102, no additional filing is at this time necessary. You can determine whether your LLP has made such a filing by referencing the Kentucky Secretary of State’s website. If it has made that filing the “company type” will be listed as **FNL**.

**Q6.** Is there a form for qualifying a foreign LP under KyULPA?

- A.** The Kentucky Secretary of State has promulgated a form for the application for a certificate of authority for a foreign limited partnership. This is form **FNP revision date 9/2007**. A copy of it

may be accessed from the Kentucky Secretary of State's website. The form has been supplemented to solicit information with respect to foreign limited partnerships that are currently qualified to transact business and are filing the application for certificate of authority in anticipation of the changes in the law discussed herein.

- Q7.** Is there a form for qualifying a foreign LLP under KyRUPA?
- A.** The Kentucky Secretary of State has promulgated a form for the statement of foreign qualification for a foreign LLP. This is form **FNL revision date 9/2007**. A copy of it may be accessed from the Kentucky Secretary of State's website. The form has been supplemented to solicit information with respect to foreign LLPs that are currently qualified to transact business and are filing the statement of foreign qualification in anticipation of the changes in the law discussed herein.
- Q8.** Must a foreign LP that is currently qualified to transact business, and seeks to qualify under KyULPA, first withdraw its existing qualification to transact business?
- A.** No. The form for the application for certificate of authority has been recently supplemented to solicit information regarding limited partnerships that are currently qualified to transact business and which seek to qualify under KyULPA. In addition, a cover letter to the Secretary of State reviewing the situation is always helpful.
- Q9.** Must a foreign LLP that is currently qualified to transact business, and seeks to qualify under KyULPA, first withdrawal its existing registration?
- A.** No. The form for the statement of foreign qualification has been recently supplemented to solicit information regarding limited liability partnerships that are currently qualified to transact business and which seek to qualify under KyRUPA. In addition, a cover letter to the Secretary of State reviewing the situation is always helpful.
- Q10.** What is the new rule for foreign Business Trusts?
- A.** In 2007 Kentucky adopted significant updates to its business trust act. These changes in the law became effective on June 26, 2007. Traditionally, business trusts have registered with the Kentucky Secretary of State by filing form **FBT**. Foreign Business trusts that have previously filed a form FBT are obligated to file an application for a certificate of authority. Form **FNT**. In addition, all foreign business trusts need to be aware that, beginning in 2008, they will be obligated to file an annual report with the Kentucky

Secretary of State's office. In the absence of a timely annual report, the qualification of the foreign business trust to transact business in Kentucky will be subject to revocation.